

Message Text

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PAGE 01 USUN N 00959 310410Z
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C O N F I D E N T I A L USUN 0959

E.O. 11652: GDS
TAGS: TSPA, AORG,ETEL, UN
SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE:DBS-MARCH 29, 1977

REF: USUN 938

1. SUMMARY: LEGAL SUBCOMMITTEE (LSC) CONTINUED CONSIDERATION OF DIRECT BROADCASTING SATELLITES (DBS) ON MARCH 30, A.M. SESSION, WITH STATEMENTS BY SWEDEN, AUSTRIA, GDR, UK, BRAZIL AND JAPAN. SWEDISH DEL PROPOSED PACKAGE SOLUTION TO QUESTION OF REMAINING PRINCIPLES. GDR, AT REQUEST OF USSR, SUBMITTED STATEMENT TO BE CONSIDERED AS A WORKING PAPER ON PRINCIPLE OF "CONSENT AND PARTICIPATION." IN WORKING GROUP SOVIETS RETURNED TO ISSUE OF SPILLOVER AND THE NECESSITY FOR CONSULTATION. SOV DEL EXPRESSED IRRITATION THT OTHER DELS NOT YET PREPARED TO FORM MINI WORKING GROUPS TO BEGIN DRAFTING. END SUMMARY.

2. SWEDISH DEL (IN CONJUNCTION WITH CANADA) MADE A LENGTHY STATEMENT PROPOSING A PACKAGE SOLUTION TO THE QUESTION OF THE REMAINING PRINCIPLES (STATEMENT POUCHED IO/UNP - OPPEL). THIS PROPOSED PACKAGE SOLUTION REFERRED TO DRAFT PREAMBLE AND PRINCIPLES TO BE CONSIDERED AS COMPROMISE (FORMER DATAFAXED MARCH 29, AND LATTER DATAFAXED MARCH 28).
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 00959 310410Z

3. AUSTRIAN DEL (HOLZER) FOLLOWED WITH STATEMENT RAISING THE QUESTION OF WHETHER THERE WAS FURTHER NEED TO ELABORATE PRINCIPLES ON DBS IN LIGHT OF 1977 WORLD ADMINISTRATIVE RADIO CONFERENCE (WARC). THE AUSTRIAN DEL SUMMARIZED BY SAYING THAT THERE WAS NO NEED FOR FURTHER ELABORATION OF PRINCIPLE OF PRIOR CONSENT.

4. GDR DEL (LUTHER) SAID THAT NEED STILL EXISTED TO DEAL WITH THREE REMAINING PRINCIPLES. AT REQUEST OF USSR, GDR SUBMITTED STATEMENT TO LSC FOR CONSIDERATION AS A WORKING PAPER ON "CONSENT AND PARTICIPATION." WORKING PAPER LANGUAGE WAS BASED ON ALTERNATIVE A ON "CONSENT AND PARTICIPATION" OF LSC'S MEETING LAST YEAR. (A/AC.105/171 ANNEX 2, PG. 3). TEXT OF GDR STATEMENT FOLLOWS: QUOTE: CONSENT AND PARTICIPATION: ACTIVITIES IN THE FIELD OF DIRECT TELEVISION BROADCASTING BY MEANS OF ARTIFICIAL SATELLITES SPECIFICALLY AIMED AT FOREIGN STATE SHALL BE SUBJECT TO APPROPRIATE AGREEMENTS BETWEEN THE STATES INVOLVED. THE CONSENTING STATE SHALL HAVE THE RIGHT TO PARTICIPATE IN SUCH ACTIVITIES AS INVOLVE COVERAGE OF ITS TERRITORY. UNQUOTE.

5. UK (GREENWOOD) RESPONDED TO QUESTION RAISED YESTERDAY BY USSR DEL RE UK PAPER, REPORTED REFTEL. AMONG OTHER THINGS, SOVIETS HAD ASKED HOW TO RECONCILE THE WARC '77 WITH PRINCIPLE OF FREEDOM OF INFORMATION AND UK DEL STRESSED THAT ISSUE WAS NOT DEALT WITH BY WARC.

6. BRAZIL (LINDENBERG SETTE) SUPPORTED GDR BY SAYING THAT LSC CANNOT ABANDON LEGAL AND POLITICAL SETTLEMENT AS HE SAID WAS SUGGESTED BY UK AS A RESULT OF THE WARC. HE SAID THERE WAS STILL A NEED TO RESOLVE THE THREE REMAINING PRINCIPLES.

7. JAPAN (KATO) POINTED OUT THAT OF THE THREE ISSUES
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 00959 310410Z

STILL OUTSTANDING BEFORE THE LSC: CONSENT AND PARTICIPATION, PROGRAM CONTENT, AND UNLAWFUL/INADMISSABLE BROADCASTS, JAPAN DOUBTS THE WISDOM OF INTRODUCTION PRINCIPLES OF PRIOR CONSENT. JAPAN DEL SAID HE BELIEVES THAT THERE SHOULD BE FULL CONSULTATION BETWEEN RECEIVING AND SENDING STATES FOR DBS AND THIS SHOULD BE IN ACCORDANCE WITH THE PRINCIPLE "PURPOSES AND OBJECTIVES" (ALREADY AGREED TO). JAPAN DEL SAID HE WOULD EXPRESS OPINION LATER ON OTHER ISSUES.

8. FOLLOWING THIS STATEMENT, LSC ADJOURNED AND RECONVENED WG-II. WYZNER, CHAIRMAN OF WG-II, OBSERVED THAT THREE WORKING PAPERS HAD BEEN SUBMITTED AND WERE BEFORE THE COMMITTEE. THESE WERE THE TWO BY CANADA AND SWEDEN (SENT 3/28/77) AND ONE BY AUSTRIA (SENT ?)

9. SOVIET DEL (KOLOSISOV) ASKED THE GDR THROUGH THE CHAIRMAN IF THEY HAD A FORMULATION AND WOULD LIKE TO HAVE THIS PROPOSAL ISSUED AS A WORKING PAPER DOCUMENT.

10. SOVIET DEL (KOLOSISOV) RETURNED TO ISSUE THE SPILLOVER AND SAID LAST YEAR'S DECISION ON SPILLOVER IS STILL VALID. HE SAID WITH RESPECT TO SPILLOVER A STATE RECEIVING SPILLOVER SHOULD STILL HAVE RIGHT TO ASK FOR CONSULTATION. THEREFORE, HE SAID IT IS PREMATURE AT THIS STAGE TO SAY THAT DUTY OR RIGHT OF CONSULTATIONS IS SUPERFLUOUS WITH RESPECT TO SPILLOVER. SOVIET DEL SAID IT WOULD BE BEST TO CONCENTRATE EFFORTS ON FORMULATION IN PARA 1 OF WP-II WHICH IS ALSO REFLECTED IN PARA 1 OF WP-III. THESE TEXTS STRESS AGREEMENTS BETWEEN BROADCASTING AND RECEIVING STATES. (TEXTS SENT 3/28/77).

11. SWEDISH DEL ANSWERED SOVIET DEL REMARKS ON SPILLOVER BY SAYING THAT ISSUE IS RAISED IN THIRD PARAGRAPH OF CANADA/SWEDEN PRINCIPLES. HE SAID SPILLOVER IS A TECHNICAL PROBLEM AND, THEREFORE, THE PROVINCE OF THE ITU. CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USUN N 00959 310410Z

HE ADDED THAT THE PRINCIPLE OF DUTY AND RIGHT TO CONSULT PROVIDES AN AMPLE SAFETY NET FOR CONSULTATION IF A DISPUTE ARISES. HE SUMMARIZED THREE KINDS OF CONSULTATIONS AND THE PROPER FORUM: (A) SPILLOVER-RESPONSIBILITY OF ITU; (B) INTERNATIONAL DISPUTES-COVERED BY PRINCIPLE ON RIGHTS AND DUTY TO CONSULT; (C) BILATERAL AND MULTILATERAL RELATIONS BETWEEN BROADCASTING AND RECEIVING STATES. SWEDISH DEL CONCLUDED BY SUPPORTING THE SUGGESTION THAT A MINI-WORKING GROUP BE ESTABLISHED FOR FURTHER CONSIDERATION OF WORKING PAPERS BEFORE THE LSC.

12. DEP SEC GEN BUTLER (ITU) POINTED OUT THAT ARTICLE 50 OF THE INTERNATIONAL TELECOMMUNICATIONS CONVENTION SETS OUT OPTION FOR RESOLUTION OF DISPUTES. HE STRESSED THAT THE WAY IN WHICH MEMBER COUNTRIES ARE PARTY TO THE CONVENTION, I.E. THROUGH SIGNATURE BY MINISTER OF ADMINISTRATION OR FOREIGN MINISTER REQUIRES THAT THE NEGOTIATION PROCESS UNDER THIS ARTICLE BE ON A HIGH (DIPLOMATIC) LEVEL.

13. WYZNER SAID HE THOUGHT THAT BASED ON COMMENTS OF THE VARIOUS DELEGATES, PARA 3 OF THE CANADIAN/SWEDEN PROPOSAL COULD BE DELETED. CANADIAN DEL INTERPOSED THAT WORKING PAPERS 1 AND 3 ARE PART OF A PACKAGE AND THAT HIS DELEGATION DID NOT WANT PARA 3 OF WORKING PAPER II DELETED AT THIS TIME.

14. THE AFTERNOON SESSION BEGAN WITH A SHORT COLOR SLIDE SHOW ON THE RESULTS OF THE WARC '79 PRESENTED BY A UK TECHNICAL EXPERT. US DEL RESPONDED TO SOVIET STATEMENT (PARA 9) BY POINTING TO THE CONFUSION WITH RESPECT TO

VARIOUS DELEGATIONS' REFERENCES TO THE SUFFICIENCY OF
ITU PROCEDURES AND RESULTS OF WARC IN ADDRESSING SUCH
PROBLEMS AS SPILLOVER, AND AT THE SAME TIME THE UNWILLING-
NESS TO ADDRESS IN A SIMILAR FASHION OTHER PROBLEMS, SUCH
AS CONSENT AND PARTICIPATION WHICH WOULD APPEAR TO FALL
CONFIDENTIAL

CONFIDENTIAL

PAGE 05 USUN N 00959 310410Z

EQUALLY WITHIN THE SCOPE OF THESE ITU PROCEDURES AND
WARC RESULTS. IN REPLY, SOVIET DEL (MAIORSKI) EXPRESSED
IRRITATION AND DISMAY THAT OTHER DELEGATES WERE STILL NOT
PREPARED TO CONVENE INTO DBS MINI WORKING GROUPS FOR
DRAFTING.
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